



DISCIPLINE CASE *DIGEST*

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Case 98-13

LAWRENCE CHARLES GREENBERG, Q.C.
Winnipeg, Manitoba

Called to the Bar
September 23, 1963

Particulars of Charges
Professional Misconduct (37 counts)

- misappropriation (x11)
- failure to deposit monies to trust account (x2)
- failure to serve clients in a conscientious, diligent and efficient manner (x14)
- misleading client
- misleading the Complaints Investigation Committee
- failure to show courtesy and good faith to fellow counsel (x3)
- failure to cooperate with the Law Society insurer
- failure to respond to correspondence from the Law Society (x4)

Date of Hearing
June 15, 1998

Panel
R.C. Krause (Chair)
B.G. Lee, Q.C.
C. Wright

Disposition

- indefinite suspension
- acceptance of member's written undertaking to:
 - a. permanently retire from the practice of law effective immediately;
 - b. never apply to resume the practice of law in this or any other jurisdiction;
 - c. pay restitution to Client N in the amount of \$600.00 and to Client K in the amount of \$50.00; and

- d. pay restitution to his former firm in the amount of \$2,855.63;
- in the event the member breaches his undertaking never to apply to resume practice, the entire proceedings, including any evidence taken in camera, as well as the written decision of the Discipline Committee, to be provided to the Admissions and Education Committee
- pay costs to the Society in the amount of \$50,000.00

Counsel

J.B. Hirsch and J.R. Gallagher for The Law Society of Manitoba
R.B. McNicol, Q.C. for the Member

Misappropriation

Facts

On thirteen occasions between March, 1995 and November, 1996, Mr. Greenberg misappropriated funds totalling \$3,505.63 which had been paid to him by clients as retainers for legal services or on account of fees and disbursements.

While acting for two different clients, Mr. Greenberg failed on three occasions to deposit to his firm's pooled trust account monies paid as retainers for legal services to be performed.

Mr. Greenberg, while acting for a client in a civil litigation matter, failed to serve the client in a conscientious, diligent and efficient manner by: failing to advise the client of the date for an examination for discovery; consenting to two orders without obtaining the clients instructions; and, failing to advise his client of three orders made by the court, including one where judgment had been entered against the client.

While acting for a client in a domestic matter, Mr. Greenberg failed to serve the client in a conscientious, diligent and efficient manner by: failing to advise the client that he had been served with an amended petition; failing to advise that default had been noted against the client; failing to attend a scheduled hearing; failing to advise his client of an order made by the court; consenting to an order to amend a judgment without obtaining the client's instructions; failing to provide the client with copies of judgments entered against the client; failing, as promised, to attempt to obtain a variation of an order; and, failing to respond to numerous telephone and other requests to forward documents for signature or to return the client's file.

In representing a client in a wrongful dismissal claim, Mr. Greenberg failed to serve the client in a conscientious, diligent and efficient manner by: failing to proceed with the claim in a timely manner; failing to keep the client informed as to the status of the matter; and,

failing to respond to numerous telephone and facsimile messages from the client.

While acting for a client in a civil litigation matter, Mr. Greenberg misled his client by advising that the delay in proceeding was due to a lack of readiness by opposing counsel, when in fact, this was not the case.

Mr. Greenberg misled the Complaints Investigation Committee of the Society in advising that he had no reason to have any communication with a client for a 21 month period, when in fact, during that period Mr. Greenberg had received nine letters relating to the client's matter, had acknowledged service of an amended petition, and had consented to an order to amend a judgment against his client.

While acting for a client in a civil litigation matter, Mr. Greenberg failed to show courtesy and good faith to two fellow lawyers in that he failed to respond to six written requests to provide his client's affidavit of documents and five written requests to provide answers to undertakings. On another occasion, Mr. Greenberg failed to show courtesy and good faith to a fellow lawyer in that he failed to respond to numerous requests to forward documents.

Mr. Greenberg failed to cooperate with his insurer in that he failed to forward a completed professional liability claims report form and a photocopy of his client file to the insurer.

On four occasions, Mr. Greenberg failed to file a written response within 14 days to correspondence received from the Society.

Decision and Comments

Mr. Greenberg entered a guilty plea to all 37 counts and on the basis of the information provided, the Committee found that his conduct constituted professional misconduct. Certain medical evidence was received in camera by the Committee.

The Committee's paramount concern was the protection of the public and the Committee expressed strong feelings that Mr. Greenberg should not be allowed to practice law again at any time in the future.

Penalty

The Committee accepted the joint recommendation of both counsel and imposed the following penalty:

- a. that Mr. Greenberg be indefinitely suspended from the practice of law;
- b. that the Society would accept Mr. Greenberg's written undertaking to:
 - i. permanently retire from the practice of law, effective immediately;
 - ii. never apply in the future to resume the practice of law in this or any other jurisdiction;
 - iii. pay restitution to Client N in the amount of \$600.00 and to Client K in the amount of \$50.00; and

- iv. pay restitution to his former firm in the amount of \$2,855.63;
- c. that in the event Mr. Greenberg breaches his undertaking never to apply to resume the practice of law, the entire proceedings before the Discipline Committee, including any evidence taken in camera, as well as the written decision of the Discipline Committee, to be provided to the Admissions and Education Committee;
- d. that Mr. Greenberg pay costs to the Society in the amount of \$50,000.00; and
- e. that this disposition be published in the Manitoba Gazette and to the profession.

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